

REMARKS

This Amendment is fully responsive to the final Office Action dated March 18, 2010, issued in connection with the above-identified application. A one-month extension of time is included. Claims 1 and 4-25 are pending in the present application. With this Amendment, claims 1, 7 and 9-25 have been amended, claims 4-6 have been canceled without prejudice or disclaimer to the subject matter therein, and claims 26 and 27 have been added. No new matter has been introduced by the amendments made to the claims or by the new claims added.

Favorable reconsideration is respectfully requested.

I. Examiner Interview

The Applicants thank Examiner Qayyum for granting the telephone interview (hereafter “interview”) conducted with the Applicants’ representative on July 8, 2010. During the interview, the rejections under 35 U.S.C. 112, first paragraph and second paragraph, and the prior art rejections were discussed in detail. The Applicants also provided the Examiner with proposed amendments to independent claim 1 (as an exemplary independent claim) to address the rejections under 35 U.S.C. 112, first paragraph and second paragraph, and the prior art rejections.

At the conclusion of the interview, the Examiner indicated that the proposed claims amendments to independent claim 1 would be sufficient to address the rejections under 35 U.S.C. 112, first paragraph and second paragraph, if made consistently throughout the claims.

With regard to the prior art rejections, it was noted that the cited prior art fails to disclose or suggest a check (i.e. judgment) performed by both a service provider and a terminal device that a range of a usage condition set by the content provider is being complied with during the usage of distributed content, as now recited in independent claim 1 (as amended). Additionally, the Examiner indicated that further consideration would be given to the arguments and claim amendments presented during the interview upon the filing of a formal response to the Office Action. The Examiner also indicated that further search of the prior art would be necessary before making a final determination regarding the allowability of any claims.

II. Rejection under 35 U.S.C. 112

Claims 1, 4-7 and 9-25 have been rejected under 35 U.S.C. 112, first paragraph, for failing to comply with written description requirements under U.S. patent law. Specifically, the Examiner alleges that the claims include subject matter that is not described in the specification

in such a way as to reasonably convey to one of ordinary skill in the relevant art that the inventors, at the time of the application was filed, had possession of the claimed invention.

Additionally, claims 1, 4-6 and 20 have been rejected under 35 U.S.C. 112, second paragraph, as being indefinite.

The Applicants have amended all the claims to be consistent with the amendments proposed during the interview conducted on July 8, 2010. During the interview, the Examiner indicated that the proposed claims amendments to independent claim 1 would be sufficient to address the rejections under 35 U.S.C. 112, first paragraph and second paragraph, if made consistently to all the claims. Accordingly, withdrawal of the rejections under 35 U.S.C. 112, first paragraph and second paragraph, is respectfully requested.

III. Rejection under 35 U.S.C. 103

In the Office Action, claims 1, 4-7 and 9-25 have been rejected under 35 U.S.C. 103(a) as being unpatentable over Downs (U.S. Patent No. 6,226,618, hereafter “Downs”) in view of Ginter (U.S. Patent No. 5,8932,900, hereafter “Ginter”).

Claims 4-6 have been canceled thereby rendering the above rejection to those claim moot. Additionally, the Applicants have amended independent claims 1, 7 and 19-25 to more clearly distinguish the present invention from the cited prior art. The amendments to independent claims 1, 7 and 9-25 are consistent with the amendments proposed during the interview conducted on July 8, 2010.

The Applicants note that the claims include “function limitations” that attempt to define something by what it does, rather than by what it is. There is nothing inherently wrong with defining some part of an invention in functional terms. Functional language does not, in and of itself, render a claim improper. *In re Swinehart*, 439 F.2d 210, 169 USPQ 226 (CCPA 1971).

Additionally, a functional limitation must be evaluated and considered, just like any other limitation of the claim, for what it fairly conveys to a person of ordinary skill in the pertinent art in the context in which it is used. *Innova/Pure Water Inc. v. Safari Water Filtration Sys. Inc.*, 381 F.3d 1111, 1117-20, 72 USPQ2d 1001, 1006-08 (Fed. Cir. 2004). (See also MPEP 2173.05(g)).

Independent claim 1 (as amended) recites *inter alia* the following features:

“[a] right management system for managing license information that authorizes usage of content, ...

wherein said subsystem of the service provider comprises:...

a content key insertion processing unit configured to (i) obtain, from the original license information, the content key used for encrypting the content, (ii) insert the obtained edit condition information into the sales license information, (iii) obtain, for the generated sales license information, the edit condition information generated by said subsystem of the content provider, from the original license information, (iv) judge whether or not the usage condition included in the generated sales license information is within the range designated in the edit condition information, and (v) insert the content key into the sales license information when the usage condition is judged to be within the range, and not to insert the content key into the sales license information when the usage condition is judged not to be within the range...

wherein said terminal device comprises:...

a contract condition comparison unit configured to (i) obtain the edit condition information which is generated by said subsystem of the content provider and is included in the sales license information, and (ii) judge whether or not the usage condition included in the sales license information received from said subsystem of the service provider is within the range designated in the obtained edit condition information...” (Emphasis added).

One or more of the features emphasized above in independent claim 1 are similarly recited in independent claims 7 and 19-25 (as amended). That is, independent claims 7 and 19-25 include either (or both) the features of the content key insertion processing unit of the subsystem of the service provider or the features of the contract condition comparison unit of the terminal device of independent claim 1. Additionally, the features noted above in independent claim 1 (and similarly recited in independent claims 7 and 19-25) are fully supported by the Applicants’ disclosure (see e.g., Figs. 15, 19 and 48).

In the Office Action, the Examiner relies on Downs and Ginter for disclosing or suggesting all the features recited in independent claims 1, 7 and 19-25. However, the Applicants assert that Downs and Ginter fail to disclose or suggest the features now recited in independent claims 1, 7 and 19-25, as amended.

In the Office Action, the Examiner relies on Downs at col. 10, lines 50-67; col. 18, lines 11-67 and col. 19, lines 1-35 for disclosing or suggesting the features of a second right management device of a service provider (now amended as “a subsystem of a service provider”). As noted during interview conducted on July 8, 2010, the most relevant portion of Down appears

to be col. 10, lines 50-67 with regard to the above features of the present invention (as recited in independent claims 1, 7 and 20, 22, 24 and 25).

Downs at col. 10, lines 50-67 discloses a clearinghouse that provides authorization and record keeping for all transactions that relate to the sales and the use of encrypted content. As described in Downs, the clearinghouse receives a request for a decryption key for content from an end user, and verifies that a requested usage condition complies with the content usage condition defined by the content provider. Once the above verification is complete, the clearinghouse sends the decryption key for the content to the end user. If the above verification cannot be completed, then the request for the decryption key is denied.

However, as amended, independent claim 1 (and similarly recited in independent claims 7, 20, 22, 24 and 25) recites that a subsystem of the service provider judges whether or not the usage condition included in the generated sales license information is within the range designated in the edit condition information, and inserts the content key into the sales license information when the usage condition is judged to be within the range, and does not insert the content key into the sales license information when the usage condition is judged not to be within the range.

Although the clearinghouse in Downs (i.e., at col. 10, lines 50-67) verifies that a requested usage condition complies with the content usage condition defined by the content provider, the clearinghouse merely sends the decryption key for the content to the end user once the verification is complete. There is no mention in Downs regarding the judging of a usage condition in generated sales license information being within a range designated in edit condition information, let alone inserting a content key into the sales license information based on such a judgment.

Moreover, as amended, independent claim 1 (and similarly recited in independent claims 19, 20, 21 and 23) recites a feature of a terminal device that includes judging whether or not the usage condition included in the sales license information received from the subsystem of the service provider is within the range designated in the obtained edit condition information.

As noted in the Office Action, Downs fails to disclose or suggest the features of the terminal device of the present invention (as recited in independent claims 1, 19, 20, 21 and 23). (See Office Action, pgs. 7-8). Thus, it logically follows that Downs also fails to disclose or

suggest the features of the terminal device now similarly recited in independent claims 1, 19, 20, 21 and 23, as amended.

Moreover, Ginter fails to overcome the deficiencies noted above in Downs. In the Office Action, the Examiner relies on in col. 19, lines 9-58; col. 30, lines 29-40, Fig. 79; and col. 281, lines 23-26) for disclosing or suggesting the above features of the terminal device.

As noted during the interview conducted on July 8, 2010, the most relevant portion of Ginter appears to be col. 19, lines 9-58. Ginter in col. 19, lines 9-58 discloses that a party can create a content container (i.e., VDE), which is an object that contains both content and control information related to the use of the content. The content container also includes control capabilities for one or more proposed agreements that manage the use and/or consequences of use of the content. These agreements may result from an evaluation process of, for example, a comparison to ensure compatibility between control terms and conditions in a table and submitted control information. Additionally, as disclosed in Ginter, agreements can be reached through a negotiation between parties regarding the use of content. In other words, parties may modify content control information as a result of a negotiation.

As amended, independent claims 1, 19, 20, 21 and 23 recites features of a terminal device that include judging whether or not the usage condition included in the sales license information received from the subsystem of the service provider is within the range designated in the obtained edit condition information.

Nothing in col. 19, lines 9-58 of Ginter discloses or suggests that a terminal device of an end user creates the content container. Regardless, the only operation in Ginter that can be interpreted as a “judging” operation is the negotiation between parties regarding the use of content. Ginter fails to disclose or suggests a terminal device that judges whether or not the usage condition included in the sales license information received from the subsystem of the service provider is within the range designated in the obtained edit condition information.

Based on the above discussion, no combination of Downs and Ginter would result in, or otherwise render obvious, the features of independent claims 1, 7 and 19-25 (as amended). Likewise, no combination of Ginter and Downs would result in, or otherwise render obvious, the features of claims 9-18, 26 and 27 at least by virtue of their respective dependencies from independent claims 1 and 7.

IV. Conclusion

In light of the above, the Applicants submit that all the pending claims are patentable over the prior art of record. The Applicants respectfully request that the Examiner withdraw the rejections presented in the outstanding Office Action, and pass the present application to issue. The Applicants are requested to contact the undersigned attorney by telephone to resolve any issues remaining in the application.

Respectfully submitted,

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